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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,477	12/22/2005	Anthony Kastropfl		8418

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EDMONDS, P.C.
16815 ROYAL CREST DRIVE
SUITE 130
HOUSTON, TX 77058

EXAMINER

TOLAN, EDWARD THOMAS

ART UNIT	PAPER NUMBER
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3725

MAIL DATE	DELIVERY MODE
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11/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/562,477	KASTROPLL, ANTHONY	
	Examiner	Art Unit	
	EDWARD TOLAN	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 98-101 and 118-133 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 98-101 and 118-133 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8-11-2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The abandonment mailed on 8-15-2008 has been withdrawn and Applicant's amendment filed 8-11-2008 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 128-133 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 128 sets forth "the axis of the tube maintained collinear with that of the cylindrical array". The specification states on page 15, lines 21-22 "the axes of the cylindrical arrays of rollers of consecutive units, regardless of their adjustments, will always be collinear". This is describing the relation of rolls to one another and not to a pipe axis. The aim of the invention is to skew the rollers so they would not be collinear with a tube axis as set forth on page 16 line 22 "skewing adjustment of the rollers".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 98,99,101,118-121 and 124-133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy (3,363,442) in view of Nilsson (4,763,504). Kennedy discloses an apparatus for adjusting a tube (69) diameter comprising a plurality of cylindrical rollers (67) in an array with each roller comprising a first and second end along axle (65). A supporting cylinder (25) has a first end flange (27) and a second end flange (29) with at least one end flange being rotationally displaceable (col. 3, lines 40-42). The first end flange and second end flange define a plurality of support apertures with the roller ends supported therein (col. 3, lines 43-54). The first and second ends of the rollers are on a pitch circle of equal diameter (fig. 2) to form a parallel cylindrical array about aperture (61) to allow a tube to pass therethrough. A means (57) adjusts a position of at least one of the end flanges so that the array is skewed (fig. 3). Kennedy discloses that spherical bearings (119) are also usable to permit angular displacement of an end of a roller axle (121). A motor (17) rotates the supporting cylinder (25) through gearing so that the rollers (67) apply force to an external surface of a tube (69). A mounting flange (55) comprising a bearing (11) holds the supporting cylinder (25). The mounting flange and motor are attached to a moving frame.

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Regarding claims 99 and 101, Gears (49,51) mesh with worm (91) and gear (21) (col. 3, lines 9 and 10). Gear (21) is driven by motor (17) (col. 2, lines 42,43). Motor (93) rotates worm screw (91) through pulley system (95,97,99) which drives frame (89). Therefore the movement of the frame and the supporting cylinder are interrelated by motor means (93) and worm (91).

Kennedy does not disclose a means for sensing a speed of the tube and controlling the rollers. Nilsson teaches (column 15, lines 60-68 and column 16, lines 1-17) that it is known to provide a sensing means (303) for sensing roll rotation which is the stock throughput speed (tube speed). The roll rotation speed of rolls (266,268) is then controlled in response to the sensing. It would have been obvious to one skilled in the art at the time of invention to provide Kennedy with speed sensing as taught by Nilsson in order to control a roll rotation of the array.

Regarding claims 119 and 120, Nilsson teaches two or more arrays.

Regarding claim 124, Nilsson teaches that the rollers (266,268) are concave.

Regarding claim 125, it appears from Kennedy (figs. 4 and 5) that the rollers are smaller than a tube diameter, a change in roller size is a matter of design choice for the skilled artisan.

Claim 100 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy et al. (3,363,442) in view of Nilsson (4,763,504). Kennedy teaches using a pneumatic cylinder (75) for chuck movement. It would have been obvious to one skilled in the art at the time of invention to substitute pneumatic means for the pulley and electric motor system as it is well known in the tube deforming art that pneumatic and

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electrical driving means are operable to drive assemblies in tube working machines wherein each drive means gives predictable results. The skilled artisan would have been motivated to change drive means depending upon workplace, power or machine considerations.

Claims 122 and 123 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy et al. (3,363,442) in view of Nilsson (4,763,504). Kennedy teaches a rack (57), gearing (36,37,39) and rotatable disc (59) or a screw drive (169) with crank (171) each operable to adjust the rollers, it would have been obvious to the skilled artisan at the time of invention to provide a motor to the rack or screw drive in order to automate the device as is commonly practiced when updating a hand actuated device for automation.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Ed Tolan whose telephone number is 571-272-4525. FAX communications should be sent to 571-273-8300.

/Edward Tolan/

Primary Examiner, Art Unit 3725